

UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO.

JAMES DELTUFO  
PLAINTIFF

V.

TOWN OF BRAINTREE,  
DONALD M. DELANEY,  
AND WILLIAM R. CUSHING JR.  
DEFENDANTS

**COMPLAINT  
JURY TRIAL DEMANDED**

1. The plaintiff, James Deltufo resides at Braintree, Massachusetts, County of Norfolk.
2. The defendant, Town of Braintree is a duly organized municipal corporation and has a business address of 2 John F. Kennedy Memorial Drive, Braintree MA 02184.
3. The defendant, Donald M. Delaney is a police officer of the Braintree Police Department, 282 Union Street, Braintree, Massachusetts, 02184 County of Norfolk.
4. The defendant, William R. Cushing Jr. is a police officer of the Braintree Police Department, 282 Union Street, Braintree, Massachusetts, 02184 County of Norfolk.

**BRIEF STATEMENT OF FACTS COMMON TO ALL COUNTS**

1. The plaintiff, James Deltufo provides this brief statement of facts in summary form which is not intended to be all inclusive.
2. On or about February 14, 2016, Plaintiff was arrested by the defendants Donald M. Delaney and William A. Cushing, Jr., police officers of the Town of Braintree, Massachusetts.

3. The defendants Donald M. Delaney and William A. Cushing, Jr. used excessive force against the plaintiff including but not limited striking him about the head and face with a flashlight and causing him to be attacked and severely injured by a dog, which was under the control of said defendants and repeatedly kneeling the plaintiff in the back, fracturing his spine.
4. After being injured, the defendants Donald M. Delaney and William A. Cushing, Jr. left the plaintiff lying in the snow with his hands handcuffed behind his back.
5. As a result of the excessive force used and being left in the snow, the plaintiff suffered severe injuries including but not limited to frostbite, facial lacerations, head lacerations, multiple spinal fractures, multiple avulsion fractures to his leg, severed nerves and deep lacerations with loss of muscle from his leg.

**COUNT I: CLAIM OF JAMES DELTUFO FOR PERSONAL INJURY  
AGAINST THE TOWN OF BRAINTREE**

1. The plaintiff restates and incorporates by reference the allegations set forth in paragraphs 2 through 5 of the Brief Statement of Facts Common to all Counts.
2. The defendant, Town of Braintree is a public employer within the meaning of G.L. c. 258 of Donald M. Delaney and William A. Cushing, Jr. referred to in paragraphs 2 through 5 of the Brief Statement of Facts Common to all Counts.
3. Prior to the institution of this action the plaintiff first submitted the claim in writing to the defendant, which claim has been denied within the meaning of Mass. Gen. Laws Chapter 258 by the failure of the Town of Braintree to take any action on said claim.
4. The conduct of Donald M. Delaney and William A. Cushing, Jr., acting within the scope of their employment for the Town of Braintree was below standards of conduct required of police officers and was negligent.
5. The defendant Town of Braintree is responsible for the conduct of Donald M. Delaney and William A. Cushing, Jr. which occurred on February 14, 2016 relating to the plaintiff.
6. As a result of the aforesaid negligence on the part of the defendant Town of Braintree, its agents, servants and employees, the plaintiff was caused to suffer physical injuries, permanent disfigurement, pain and mental anguish and will continue to do so for an indefinite time in the future.
7. As a result of the aforesaid conduct on the part of the defendant, its agents, servants and employees, the plaintiff has been obliged to expend sums of money

for medical care and attention and will continue to do so for an indefinite time in the future.

8. As a further result of the aforesaid conduct on the part of the defendant, its agents, servants and employees, the plaintiff has suffered a loss and depreciation in earning capacity and will continue to do so for an indefinite time in the future.
9. All procedural prerequisites to the filing and maintenance of this action have been complied with.

**COUNT II: CLAIM AGAINST DONALD M. DELANEY FOR VIOLATION OF CIVIL RIGHTS PURSUANT TO 42 U.S.C. §1983**

1. The plaintiff restates and incorporates by reference the allegations set forth in paragraphs 2 through 5 of the Brief Statement of Facts Common to all Counts.
2. On or about February 14, 2016 the defendant herein interfered by threats, intimidation or coercion, or attempted to interfere by physical violence, threats, intimidation or coercion, with the exercise or enjoyment by the plaintiff of rights secured by the constitution or laws of the United States, or of rights secured by the constitution or laws of the Commonwealth of Massachusetts including but not limited to 28 USC sections 1983 and 1985; the Eighth and Fourteenth Amendments to the United States Constitution and the Constitution and laws of the Commonwealth of Massachusetts including but not limited to Article 26 of The Declaration of Rights in the Massachusetts Constitution.
3. As a result of the aforesaid conduct on the part of the defendant herein the plaintiff was caused to suffer physical injuries, permanent disfigurement, pain and mental anguish and will continue to do so for an indefinite time in the future.
4. As a result of the aforesaid conduct on the part of the defendant, the plaintiff has been obliged to expend sums of money for medical care and attention.
5. As a further result of the aforesaid conduct on the part of the defendant herein the plaintiff has suffered a loss and depreciation in earning capacity.

**COUNT III: CLAIM AGAINST DONALD M. DELANEY FOR CONSPIRACY TO VIOLATE CIVIL RIGHTS PURSUANT TO 42 U.S.C. §1985**

1. The plaintiff restates and incorporates by reference the allegations set forth in paragraphs 2 through 5 of the Brief Statement of Facts Common to all Counts.
2. On or about February 14, 2016 the defendant herein conspired with one or more persons for the purpose of depriving, either directly or indirectly, the plaintiff of the equal protection of the laws, or of equal privileges and immunities under the laws and one or more persons engaged therein did, or caused to be done, any act in furtherance of the object of such conspiracy, whereby the plaintiff was injured

in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States including but not limited to 28 USC sections 1983 and 1985; the Eighth and Fourteenth Amendments to the United States Constitution and the Constitution and laws of the Commonwealth of Massachusetts including but not limited to Article 26 of The Declaration of Rights in the Massachusetts Constitution.

3. As a result of the aforesaid conduct on the part of the defendant herein the plaintiff was caused to suffer physical injuries, permanent disfigurement, pain and mental anguish and will continue to do so for an indefinite time in the future.
4. As a result of the aforesaid conduct on the part of the defendant, the plaintiff has been obliged to expend sums of money for medical care and attention.
5. As a further result of the aforesaid conduct on the part of the defendant herein the plaintiff has suffered a loss and depreciation in earning capacity.

**COUNT IV: CLAIM AGAINST DONALD M. DELANEY FOR VIOLATION OF CIVIL RIGHTS PURSUANT TO M.G.L. CH. 12 §11I**

1. The plaintiff restates and incorporates by reference the allegations set forth in paragraphs 2 through 5 of the Brief Statement of Facts Common to all Counts.
2. On or about February 14, 2016 the defendant herein interfered by threats, intimidation or coercion, or attempted to interfere by threats, intimidation or coercion, with the exercise or enjoyment by the plaintiff of rights secured by the constitution or laws of the United States, or of rights secured by the constitution or laws of the commonwealth of Massachusetts including but not limited to Article 26 of The Declaration of Rights in the Massachusetts Constitution.
3. As a result of the aforesaid conduct on the part of the defendant herein the plaintiff was caused to suffer physical injuries, permanent disfigurement, pain and mental anguish and will continue to do so for an indefinite time in the future.
4. As a result of the aforesaid conduct on the part of the defendant, the plaintiff has been obliged to expend sums of money for medical care and attention and will continue to do so for an indefinite time in the future.
5. As a further result of the aforesaid conduct on the part of the defendant herein the plaintiff has suffered a loss and depreciation in earning capacity and will continue to do so for an indefinite time in the future.

**COUNT V: CLAIM FOR INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS AGAINST DONALD M. DELANEY**

1. The plaintiff restates and incorporates by reference the allegations set forth in paragraphs 2 through 5 of the Brief Statement of Facts Common to all Counts.

2. On or about February 14, 2016 the defendant herein engaged in conduct towards the plaintiff which was extreme and outrageous conduct, beyond all possible bounds of decency which the defendant knew or should have known was likely to result in the plaintiff's suffering severe emotional distress and in fact resulted in the plaintiff's suffering severe emotional distress.

**COUNT VI: CLAIM AGAINST WILLIAM R. CUSHING JR. FOR VIOLATION OF CIVIL RIGHTS PURSUANT TO 42 U.S.C. §1983**

1. The plaintiff restates and incorporates by reference the allegations set forth in paragraphs 2 through 5 of the Brief Statement of Facts Common to all Counts.
2. On or about February 14, 2016 the defendant herein interfered by threats, intimidation or coercion, or attempted to interfere by physical violence, threats, intimidation or coercion, with the exercise or enjoyment by the plaintiff of rights secured by the constitution or laws of the United States, or of rights secured by the constitution or laws of the Commonwealth of Massachusetts including but not limited to 28 USC sections 1983 and 1985; the Eighth and Fourteenth Amendments to the United States Constitution and the Constitution and laws of the Commonwealth of Massachusetts including but not limited to Article 26 of The Declaration of Rights in the Massachusetts Constitution.
3. As a result of the aforesaid conduct on the part of the defendant herein the plaintiff was caused to suffer physical injuries, permanent disfigurement, pain and mental anguish and will continue to do so for an indefinite time in the future.
4. As a result of the aforesaid conduct on the part of the defendant, the plaintiff has been obliged to expend sums of money for medical care and attention.
5. As a further result of the aforesaid conduct on the part of the defendant herein the plaintiff has suffered a loss and depreciation in earning capacity.

**COUNT VII: CLAIM AGAINST WILLIAM R. CUSHING JR. FOR CONSPIRACY TO VIOLATE CIVIL RIGHTS PURSUANT TO 42 U.S.C. §1985**

1. The plaintiff restates and incorporates by reference the allegations set forth in paragraphs 2 through 5 of the Brief Statement of Facts Common to all Counts.
2. On or about February 14, 2016 the defendant herein conspired with one or more persons for the purpose of depriving, either directly or indirectly, the plaintiff of the equal protection of the laws, or of equal privileges and immunities under the laws and one or more persons engaged therein did, or caused to be done, any act in furtherance of the object of such conspiracy, whereby the plaintiff was injured in his person or property, or deprived of having and exercising any right or

privilege of a citizen of the United States including but not limited to 28 USC sections 1983 and 1985; the Eighth and Fourteenth Amendments to the United States Constitution and the Constitution and laws of the Commonwealth of Massachusetts including but not limited to Article 26 of The Declaration of Rights in the Massachusetts Constitution.

3. As a result of the aforesaid conduct on the part of the defendant herein the plaintiff was caused to suffer physical injuries, permanent disfigurement, pain and mental anguish and will continue to do so for an indefinite time in the future.
4. As a result of the aforesaid conduct on the part of the defendant, the plaintiff has been obliged to expend sums of money for medical care and attention.
5. As a further result of the aforesaid conduct on the part of the defendant herein the plaintiff has suffered a loss and depreciation in earning capacity.

**COUNT VIII: CLAIM AGAINST WILLIAM R. CUSHING JR. FOR VIOLATION OF CIVIL RIGHTS PURSUANT TO M.G.L. CH. 12 §11I**

1. The plaintiff restates and incorporates by reference the allegations set forth in paragraphs 2 through 5 of the Brief Statement of Facts Common to all Counts.
2. On or about February 14, 2016 the defendant herein interfered by threats, intimidation or coercion, or attempted to interfere by threats, intimidation or coercion, with the exercise or enjoyment by the plaintiff of rights secured by the constitution or laws of the United States, or of rights secured by the constitution or laws of the commonwealth of Massachusetts including but not limited to Article 26 of The Declaration of Rights in the Massachusetts Constitution.
3. As a result of the aforesaid conduct on the part of the defendant herein the plaintiff was caused to suffer physical injuries, permanent disfigurement, pain and mental anguish and will continue to do so for an indefinite time in the future.
4. As a result of the aforesaid conduct on the part of the defendant, the plaintiff has been obliged to expend sums of money for medical care and attention and will continue to do so for an indefinite time in the future.
5. As a further result of the aforesaid conduct on the part of the defendant herein the plaintiff has suffered a loss and depreciation in earning capacity and will continue to do so for an indefinite time in the future.

**COUNT IX: CLAIM FOR INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS AGAINST WILLIAM R. CUSHING JR.**

1. The plaintiff restates and incorporates by reference the allegations set forth in paragraphs 2 through 5 of the Brief Statement of Facts Common to all Counts.

2. On or about February 14, 2016 the defendant herein engaged in conduct towards the plaintiff which was extreme and outrageous conduct, beyond all possible bounds of decency which the defendant knew or should have known was likely to result in the plaintiff's suffering severe emotional distress and in fact resulted in the plaintiff's suffering severe emotional distress.

WHEREFORE, the plaintiff herein demands a trial by jury and judgment and compensatory and punitive damages of the defendants herein, plus interest, costs and reasonable attorney's fees.

By his attorney,

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